IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
Second Appeal No.1150 of 2004.

Shri Shrirang Dadadu Chandanshiv
& Others ..Appellants

versus

Shri Dinkar Rambhnu Chandanshiv ..Respondent.

Mr.V.G.Mujumdar for the Appellants

Mr.V.B.Konde-Deshmukh for the Respondent.

Coram : S.R.Sathe, J.
Dated : 21st August, 2007

P.C.

1. Heard both the learned advocates.

2. Appellants-the Original Defendants have filed the present appeal against the judgment and order passed by the Court of Addl. District Judge, Pune whereby the order passed by the Trial Court restraining defendants from obstructing plaintiffs from cutting trees situated at the eastern boundary of the suit lands and having vahiwat on the said boundary was confirmed.

3. Shri Mujumdar, learned advocate for the appellants/defendants strenuously argued before me that in the instant case the plaintiff has also infact admitted that half of the land bearing survey

No.267 is in possession of plaintiff and the remaining half i.e. the western portion is in possession of the defendants and even then the learned Trial Judge has observed that the plaintiff is in possession of the entire suit land. It is true that the plaintiff has in fact clearly admitted the he is not in possession of the entire Gut No.267. It must also be noted that the plaintiffs suit was also not in respect of the entire Gut No.267. The suit was only pertaining to the bund which is in between the plaintiff's land and the defendant's land and the babul trees on the said bund.

4. Both the courts below have recorded the concurrent finding of fact that the said bund is in possession of the plaintiffs and defendants obstructed to their vahiwat or possession of the said bund and cutting the babul trees standing on the said bund. There is nothing on record to show that the said concurrent finding of fact is not borne out from the evidence on record or that the same is perverse. Hence, there is no substantial question of law involved in the matter. The appeal is dismissed in limine.

(S.R.Sathe, J.)